

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

Astellas Institute for Regenerative Medicine, and  
Stem Cell & Regenerative Medicine  
International, Inc.,

Plaintiffs,

v.

ImStem Biotechnology, Inc.,  
Xiaofang Wang, and  
Ren-He Xu,

Defendants.

Civil Action No. 1:17-cv-12239

Hon. Allison D. Burroughs

**PLAINTIFFS ASTELLAS' AND SCRMI'S  
MOTION TO DISMISS DEFENDANTS  
IMSTEM'S AND XIAOFANG WANG'S COUNTERCLAIMS**

Pursuant to Fed. R. Civ. P. 12(b)(6), Plaintiffs Astellas Institute for Regenerative Medicine (“Astellas”) and Stem Cell & Regenerative Medicine International, Inc. (“SCRMI”) (collectively “Plaintiffs”) move to dismiss Defendants ImStem Biotechnology, Inc. (“ImStem”) and Xiaofang Wang’s (collectively “Defendants”) Counterclaims. (D.I. 20.) Defendants oppose this motion. Dr. Wang did not make any inventive contribution to U.S. Patent No. 8,961,956 (“the ’956 patent”), but instead, at most, only contributed what was already known in the prior art. As such, he cannot be an inventor of the ’956 patent.

In support, Plaintiffs rely on the memorandum submitted concurrently with this motion, the accompanying declaration and exhibit, and any further briefing and argument that may be permitted by the Court.

WHEREFORE, Plaintiffs respectfully request that the Court GRANT this Motion and DISMISS Defendants' Counterclaims with prejudice.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(d), Plaintiffs respectfully request that the Court hold oral argument on this motion, as Plaintiffs believe that oral argument will assist the Court.

Dated: January 31, 2018

Respectfully submitted,

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**LOCAL RULE 7.1 CERTIFICATION**

I, Charles H. Sanders, counsel for Astellas, hereby certify that we have conferred with counsel for ImStem and Xiaofang Wang to resolve or narrow the issues presented in this motion but, after good faith attempt, the parties reached no agreement.

Dated: January 31, 2018

By: /s/ Charles H. Sanders  
Charles H. Sanders (BBO #646740)

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants by first class mail.

Dated: January 31, 2018

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